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*courage is contagious*

## Viewing cable 06NAIROBI3217, CHARTERHOUSE WHISTLEBLOWER DETAILS MONEY

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### Understanding cables

Every cable message consists of three parts:

- The top box shows each cables unique reference number, when and by whom it originally was sent, and what its initial classification was.
- The middle box contains the header information that is associated with the cable. It includes information about the receiver(s) as well as a general subject.
- The bottom box presents the body of the cable. The opening can contain a more specific subject, references to other cables ([browse by origin](#) to find them) or additional comment. This is followed by the main contents of the cable: a summary, a collection of specific topics and a comment section.

To understand the justification used for the classification of each cable, please use this [WikiSource](#) article as reference.

### Discussing cables

If you find meaningful or important information in a cable, please link directly to its unique reference number. Linking to a specific paragraph in the body of a cable is also possible by copying the appropriate link (to be found at the paragraph symbol). Please mark messages for social networking services like Twitter with the hash tags **#cablegate** and a hash containing the reference ID e.g. **#06NAIROBI3217**.

Reference ID	Created	Released	Classification	Origin
<a href="#">06NAIROBI3217</a>	<a href="#">2006-07-26 02:51</a>	<a href="#">2011-08-30 01:44</a>	<a href="#">CONFIDENTIAL</a>	<a href="#">Embassy Nairobi</a>

Appears in these articles:

<http://www.the-star.co.ke/>

VZCZCXYZ0000  
OO RUEHWEB

DE RUEHNR #3217/01 2070251  
ZNY CCCCC ZZH  
O 260251Z JUL 06  
FM AMEMBASSY NAIROBI  
TO RUEAWJF/HQ DHS WASHDC IMMEDIATE  
RUEATRS/DEPT OF TREASURY WASHDC IMMEDIATE  
RUEHC/SECSTATE WASHDC IMMEDIATE 3228  
INFO RUEHXR/RWANDA COLLECTIVE PRIORITY  
RUCNFB/FBI WASH DC PRIORITY

C O N F I D E N T I A L NAIROBI 003217

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TREASURY PASS TO FINCEN

E.O. 12958: DECL: 07/25/2026  
TAGS: [KCOR](#) [KCRM](#) [PREF](#) [ECON](#) [EFIN](#) [KE](#) [TZ](#) [UG](#)  
SUBJECT: CHARTERHOUSE WHISTLEBLOWER DETAILS MONEY  
LAUNDERING AND TAX EVASION AND REQUESTS REFUGE IN U.S.

REF: A. A. NAIROBI 2870

¶B. B. NAIROBI 2482  
¶C. C. NAIROBI 1688  
¶D. D. NAIROBI 1614

Classified By: Charge John F. Hoover for reasons 1.4 (B) and (D)

¶1. (C) Summary: Kenyan auditor Peter Odhiambo exposed billions of shillings of tax evasion and money laundering at his former employer, Charterhouse Bank, by a group of major companies partly owned by notorious businessman John Mwau and MP William Kabogo. On July 20, Odhiambo briefed Embosfs on the details of the scam, and explained he had experienced death threats and a frightening attempt by some policemen to serve him with a bogus warrant. Because the people implicated in the scandal are dangerous and appear to have bought influence and protection from the GOK, Odhiambo requested refuge in the U.S. Refugee Officer is prepared to write an Embassy referral for Odhiambo to DHS for processing his application for refugee status, and DHS is willing to interview him. End summary.

#### Money Laundering and Tax Evasion at Charterhouse Bank

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¶2. (C) Peter Odhiambo met with PolOff and EconOff on July 20 to describe his role in exposing massive money laundering and tax evasion by the Nakumatt Group of companies. (See reftels for more details.) Odhiambo moved from Barclays Bank to Charterhouse in May 2003 as the internal auditor. Within two months, he noticed suspicious transactions in accounts lacking the customer identification information required by the Central Bank of Kenya,s (CBK) &Know Your Customer8 regulations. Some accounts also appeared to violate CBK prudential limits on loans and liquidity. Charterhouse concealed the violations by manipulating the figures just before the end of the month submissions were compiled, or before visits from external or CBK auditors, and then reverted the figures immediately afterwards. The General Manager told Odhiambo not to write down anything about the suspicious accounts in any report the CBK auditors might see.

¶3. (C) Odhiambo examined the suspicious accounts and found many personal savings accounts with (annual?) turnovers in excess of Ksh2 billion (\$27 million). The transactions records showed funds were being diverted from Nakumatt Supermarket and related firms into various personal savings accounts, presumably to avoid taxes by under-declaring revenues to the Kenya Revenue Authority (KRA). In May 2004, Odhiambo collected the information on 85 accounts with annual turnover of about Ksh20 billion (\$270 million) and presented it to the KRA, which promised strict confidentiality to protect him. KRA however, took no action, and did not give Odhiambo the 1% reward its newspaper ads promised to informants who revealed tax fraud.

¶4. (C) Odhiambo identified the companies involved in tax evasion and money laundering as the five companies in Nakumatt Holdings: XXXXXXXXXXXX.  
(A CBK report also implicated the John Harun Group, Triton Petroleum, law firm Kariuki Muigua & Co., Pepe Ltd, XXXXXXXXXXXX, and businessmen William Gitau). Odhiambo stated that, although six South Asian Kenyans were listed as the owners of Nakumatt Holdings, some of them were proxy holders of shares actually owned by John Haroun Mwau and MP William Kabogo, both of whom have been linked to smuggling XXXXXXXXXXXX. Odhiambo noticed a deposit of Ksh10 million/day into Nakumatt,s or Tusker Mattresses, accounts, and he suspected the funds were smuggling proceeds from Harun Mwau,s container depot company, Pepe. Odhiambo believes the perpetrators evaded about Ksh43 billion (\$573 million) in taxes, but that KRA has been purposefully understating the figure.

#### Whistleblowing is Hazardous in Kenya

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¶5. (C) When KRA made no effort to pursue the fraud and money laundering at Charterhouse, Odhiambo presented the

information in August to CBK Governor Mullei. Mullei formed a task force with KRA and the Kenya Anti-Corruption Commission (KACC) to investigate Odhiambo's information. Odhiambo left Charterhouse in August 2004. In November 2004, colleagues still at Charterhouse warned him the bank was aware of his disclosure of information. He began receiving

disquieting calls, but claims he was not offered any bribe for silence. Odhiambo suspected someone at KACC revealed his whistleblowing role to Charterhouse. In February 2005, Mullei offered him a position at CBK advising the task force, and his situation &quieted down.<sup>8</sup> Odhiambo said the task force confirmed Odhiambo's information. (Note: Press reports claimed the Charterhouse Bank Archives were destroyed in a fire, so it is not clear whether the task force was able to view the files Odhiambo copied. End note.) Press reports said CBK fined Charterhouse for violations of the Banking Act and on March 20, 2006 recommended to the Minister of Finance that he cancel the bank's license (ref A). A few days later, Governor Mullei was charged in court with four counts of abuse of office, apparently in retaliation for his effort to indict Charterhouse.

¶6. (C) In an effort to defend himself, Mullei leaked information on Charterhouse to the press, and Finance Minister Kimunya was forced to close the bank temporarily to prevent a run. On July 6, shadow Finance Minister Kerrow tabled a bootlegged CBK report claiming the Nakumatt Group of companies had evaded Ksh18 billion of taxes. On July 7, two men who identified themselves as police officers from the Central Station confronted Odhiambo at the CBK and ordered him to accompany them to his house for a search. Fortunately, the acting CBK Governor demanded to see the warrant, and rejected it because it was dated July 2005 and the applicant was no longer the General Manager of Charterhouse.

¶7. (C) Fearing further police harassment, Odhiambo called the Daily Nation, which published his story on July 8, and the Kenya National Human Rights Commission (KNHCR). The head of the Commission arranged a meeting for Odhiambo on July 11 with Justice Minister Martha Karua, who was concerned by his story and regretted how &criminals had taken over so much of the Kenyan Government.<sup>8</sup> She advised Odhiambo to write a letter to Police Commissioner Ali asking him to guarantee his safety. He sent copies of the letter to Minister Karua, Finance Minister Kimunya, Internal Security Minister Michuki, the Attorney General and the CBK Acting Governor to ensure they were all aware of the effort to use the police to intimidate or threaten him. Odhiambo never received any acknowledgment of the letters, nor any protection. Nor have the CBK, KRA, KACC, or the Ministry of Finance taken any further action against Charterhouse Bank or the account holders. The Ministry has not officially released any of the CBK's reports on the Charterhouse investigation. A scathing July 8 press article called into question Finance Minister Kimunya's credibility in getting to the bottom of the matter, pointing out a number of critical omissions and deceptions in the Minister's June 27 statement to Parliament, when he announced the temporary closure of the bank.

¶8. (C) After the July 8 newspaper stories, Odhiambo said he began receiving threatening phone calls warning him to leave Kenya, suspicious people were seen lurking around his house, and his cell phone may have been bugged. He claimed one of the Task Force members connected with him has also received threatening calls. Odhiambo sent his family to the U.S., changed his cell phone, and changed his residence twice. He suspects Mwau and the other businessmen bought protection from all GOK enforcement agencies by funneling large sums of money to senior officials to pay for the NARCs constitutional referendum campaign in November 2005. For example, one acquaintance at KRA told Odhiambo the KRA Commissioner receives Ksh5 million/month from Mwau's group. Odhiambo fears Mwau, Kabogo and others involved will kill him or &make him disappear<sup>8</sup> both to retaliate and to deter other potential whistleblowers. He does not believe any GOK agency will protect him effectively.

## Whistleblower Requests Refuge in the U.S.

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¶9. (C) Odhiambo therefore requested refuge in the U.S., where he would like to study and work in the banking field. He believes protecting him would demonstrate the USG cares about corruption in Kenya, protect people in jeopardy, and shame the GOK into a better recognition of the need to seriously address corruption. Odhiambo said it would be dangerous, but he would be willing to return temporarily to Kenya as a witness, if his testimony in court was needed to convict the criminals. He said he was considering fleeing Kenya shortly, with or without arrangements for onward travel to the U.S. He believed he could travel to a neighboring country and be safe for a time. Refugee Officer discussed

the possible options and procedures available for refugee processing. He said he would discuss the issue with the DHS officer responsible and get back to Odhiambo ASAP.

¶10. (C) Credible contacts familiar with the case, including XXXXXXXXXXXX and the journalist investigating the Charterhouse scandal, are unequivocal in lending credibility to Odhiambo's fears. The believe that Odhiambo, as a low-profile "small fish", makes a perfect victim through which Mwau and his accomplices can vent their anger and send a message to other whistleblowers to lay off. They urge the USG to do whatever it can do now to assist Odhiambo, both for his own physical safety, and to send a signal that the U.S. supports whistleblowers on corruption.

¶11. (C) Refugee Coordinator discussed this case with DHS rep and others within the Mission. The consensus view among those consulted, as well as Refugee Coordinator's own view, is that the rarely used in-country DHS interview approach would not be suitable in this case. However, Refugee Coordinator is prepared to write an Embassy referral for Odhiambo should he go to another country, and DHS is willing to interview him for refugee processing. While Emboffs do not advise anyone to become a refugee, we will let Odhiambo know when he contacts us again that should he depart Kenya, we will arrange an interview for him. Odhiambo has been out of contact since July 20, and Emboffs are concerned about his safety.

## Comment

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¶12. (C) Odhiambo,s story is credible. It fits well with information from other sources about Harun Mwau, Nakumatt, and the others implicated in the Charterhouse scandal (see reftels). We believe he has a well-founded fear of being injured or killed. The perpetrators would most likely be thugs working for John Harun Mwau and his accomplices, but we can't rule out that corrupt police or security officers would do the job. In any event, Odhiambo cannot expect GOK protection given the strong ties we believe Mwau enjoys at all levels of the Kenyan government. MP William Kabogo, if he is involved as now alleged, also has a reputation for being a ruthless businessman. Like Mwau, he got rich by means of a large-scale smuggling operation in Mombasa. He is believed by many to be behind the New Years Eve murder of a CID officer investigating smuggling there. Given the stakes involved (penalties that could reach roughly \$1.3 billion, plus potential criminal charges and prison) they have both the incentive and the track record to make an example out of Odhiambo through violent means.

¶13. (C) Although the GOK recently passed a Whistleblower Protection Act, the recent death from pneumonia and in poverty of Goldenberg whistleblower David Munyakei demonstrates the neglect and lack of protection the GOK provides. Odhiambo,s story and concerns sound realistic. A DHS visit to a neighboring country could be arranged relatively quickly, allowing DHS to make a refugee status determination in short order, if Odhiambo chooses that route.

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